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 6 WOODS & ERICKSON, LLP

7 **UNITED STATES BANKRUPTCY COURT**
 8
 9 **DISTRICT OF NEVADA**

10 In re:

11 ANDREW B. PLATT and RUTH ANN PLATT,
 12
 13 Debtors.

BAP No.: NV-21-1198

Case No.: 2:19-bk-17282-abl
 Adv. No.: 2:19-bk-01125-abl

14 ANDREW B. PLATT,

Chapter 7

15 v.
 16 WOODS & ERICKSON LLP,
 17
 18 Appellee.

**MOTION TO STRIKE ITEM FROM
 APPELLANT'S DESIGNATION OF
 RECORD ON APPEAL FROM
 BANKRUPTCY COURT**

19 Appellee, Woods & Erickson LLP, ("Appellee" or "Firm"), by and through its attorneys,
 20 Gerrard Cox Larsen, submits its Motion to Strike Item from Appellant's Designation of Record on
 21 Appeal from Bankruptcy Court, pursuant to Federal Rule of Bankruptcy Procedure 8009(e)(1).

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 Appellant's Designation of Record on Appeal from Bankruptcy Court was filed on
 24 September 21, 2021 at [Doc 126]. Therein, Appellant identified various items for inclusion in the
 25 Record on Appeal, including under category "C. Trial Exhibits", item number 29, that appears to
 26 correspond with Plaintiff's proposed trial exhibit 5, which Appellant has described as "October
 27 2016 emails re: payments from Fani." (Appellant's Designation of Record on Appeal from
 28 Bankruptcy Court [Doc. 126], at page 2.).

1 Federal Rule of Bankruptcy Procedure 8009, provides, in relevant part, as follows:

2 (e) Correcting or Modifying the Record.

3 (1) Submitting to the Bankruptcy Court. . . . If an
4 item has been improperly designated as part of the
5 record on appeal, a party may move to strike that item.

6 Appellee has attached hereto, true and correct copies of the Trial Exhibit Logs maintained
7 by the Court during the trial of this matter, including Plaintiff's Trial Exhibit Log as **Exhibit "1"**,
8 and Defendant's Trial Exhibit Log as **Exhibit "2"**. *See*, Declaration of Gary C. Milne, Esq.
9 attached as **Exhibit "3"**.

10 A review of the Plaintiff's Trial Exhibit Log (Exhibit "1"), reveals that Plaintiff's proposed
11 trial Exhibit 5, identified as a 10/14/16 email from Andrew Platt to Glen Woods (WEW012124)
12 (**092**), was not admitted during the course of trial. Accordingly, it should not be part of the record
13 on appeal and Appellant's designation of Plaintiff's proposed trial Exhibit 5 (item 29) should be
14 stricken from the designation of record on appeal, that Appellant filed on September 21, 2021 [Doc.
15 126].

16 DATED this 7th day of October, 2021.

GERRARD COX LARSEN

17 */s/ Douglas D. Gerrard, Esq.*

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21 *Attorneys for Appellee, Woods & Erickson,
LLP*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of GERRARD COX LARSEN, and that on the 7th day of October, 2021, I served a copy of **MOTION TO STRIKE ITEM FROM APPELLANT'S DESIGNATION OF RECORD ON APPEAL FROM BANKRUPTCY COURT**, as follows:

a. **Electronically Mailed by ECF System:**

DOUGLAS D. GERRARD on behalf of Plaintiff WOODS & ERICKSON, LLP
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MATTHEW L. JOHNSON on behalf of Defendant ANDREW B. PLATT
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b. USPS First Class Mail served to:

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Kanani Gonzales
Kanani Gonzales, an employee of
GERRARD COX & LARSEN